



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बोरवार, 30 जनवरी, 1964/10 माघ, 1885

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 29th January, 1964

No. 1-26/63-VS.—In pursuance of rule 127 of the Rules of Procedure and Conduct of Business of the U.P. Legislative Assembly as adopted for the Himachal Pradesh Legislative Assembly “The Himachal Pradesh Repealing Bill, 1964” as introduced in the Legislative Assembly on the 9th Magha, 1885 corresponding to the 29th January, 1964, is published for general information.

Bill No. 1 of 1964

THE HIMACHAL PRADESH REPEALING BILL, 1964

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to repeal certain laws.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifteenth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Himachal Pradesh Repealing Act, 1964.

2. Repeal of certain Laws.—The laws specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. Savings.—The repeal by this Act of any law shall not affect any other law in which the repealed law has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognized or derived by, in or from any law hereby repealed;

nor shall the repeal by this Act of any law, revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

SCHEDULE

(See section 2)

Year	No.	Short title	Extent of repeal
1	2	3	4
1878	XVII	Northern Ferries Act, 1878 as applied to Bilaspur by Bilaspur (Application of Laws) Order, 1949.	The whole
1905	III	The Punjab Minor Canals Act, 1905 as applied to Bilaspur by the Bilaspur (Application of Laws) Order, 1949.	The whole
1916	II	The Punjab Medical Registration Act, 1916 as applied to Bilaspur by the Bilaspur (Application of Laws) Order, 1949.	The whole
1940	XV	The Madras Live Stock Improvement Act, 1940 as extended to Bilaspur by notification No. 94-J, dated the 10th June, 1953.	The whole
1948	XLVI	The East Punjab General Sales Tax Act, 1948 as applied to Bilaspur by the Bilaspur (Application of Laws) Order, 1949.	The whole
1953	X	The Punjab Security of Land Tenure Act, 1953 as extended to Bilaspur by notification No. 191-J, dated the 21st September, 1953.	The whole
1999	IV	The Mandi Juvenile Smoking Act, 1999 (Sambat).	The whole
1999	V	The Mandi State Mechanical Lighters (Excise Duty) Act, 1999 (Sambat).	The whole
2002	II	The Mandi State Mulberry Trees Protection Act, 2002 (Sambat).	The whole
2002	III	The Mandi State Silk Protection Act, 2002 (Sambat).	The whole
2001	IV	The Bank of Sirmur Act, 2001 (Sambat)	The whole
2004	I	The Sirmur Primary Education Act, 2004 (Sambat).	The whole
2004	V	The Sirmur Home Guards Act, 2004 (Sambat).	The whole
2005	—	The Bilaspur State Transport Animals Registration Act, 2005 (Sambat).	The whole

STATEMENT OF OBJECTS AND REASONS

There are certain obsolete and unwanted laws still in force in certain parts of Himachal Pradesh. This Bill seeks to repeal those laws.

Y. S. PARMAR,
Minister of Law.

SIMLA :
The 29th January, 1964.

FINANCIAL MEMORANDUM

NIL

MEMORANDUM REGARDING DELEGATED LEGISLATION

NIL

Simla-4, the 29th January, 1964

No. 1-26/63-VS.—In pursuance of rule 127 of the Rules of Procedure and Conduct of Business of the U.P. Legislative Assembly as adopted for the Himachal Pradesh Legislative Assembly “The Himachal Pradesh Dramatic Performances Bill, 1964” as introduced in the Legislative Assembly on the 9th Magha, 1885 corresponding to the 29th January, 1964, is published for general information.

Bill No. 2 of 1964

**THE HIMACHAL PRADESH DRAMATIC PERFORMANCES
BILL, 1964**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the better control of public dramatic performances in the Union territory of Himachal Pradesh.

WHEREAS it is expedient to provide for the better control of public dramatic performances in the Union territory of Himachal Pradesh;

BE it enacted in the Fifteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Dramatic Performances Act, 1964.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Definitions.—In this Act, unless the context otherwise requires—

(1) “objectionable performance” means any play, pantomime or other drama which is likely to—

- (i) incite any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area; or
- (ii) incite any person to commit murder, sabotage or any offence involving violence; or
- (iii) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or
- (iv) incite any section of the citizens of India to acts of violence against any other section of the citizens of India; or which:
- (v) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or by blaspheming or profaning the religion or the religious beliefs of that class; or
- (vi) is grossly indecent, or is scurrilous or obscene or intended for blackmail;

Explanation I.—A performance shall not be deemed to be objectionable merely because in the course thereof words are uttered, or signs or visible representations are made, expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means.

Explanation II.—In judging whether any performance is an objectionable performance, the play, pantomime or other drama shall be considered as a whole.

- (2) "Official Gazette" means the Rajpatra Himachal Pradesh;
- (3) "public place" means any building or enclosure, or any place in the open air and any *pandal* where the sides are not enclosed to which the public are admitted to witness a performance;
- (4) "State Government" means the Lieutenant Governor of Himachal Pradesh.

3. Power to prohibit objectionable performances.—(1) Whenever the State Government are satisfied that any play, pantomime or other drama performed or about to be performed in a public place is an objectionable performance, they may, by order stating the grounds on which they consider the performance objectionable, prohibit the performance.

(2) No order under sub-section (1) shall be passed without giving a reasonable opportunity to the organizer or other principal persons responsible for the conduct of the performance or to the owner or occupier of the public place in which such performance is intended to take place, to show cause why the performance should not be prohibited.

(3) Every order made under sub-section (1) shall be published in the Official Gazette.

(4) Any order made under sub-section (1) may also be notified by proclamation and a written or printed notice thereof may be affixed at any place or places adapted for giving information of the order to the persons intending to take part in the performance so prohibited.

4. Power to prohibit objectionable performances temporarily.—(1) The District Magistrate, if he is of opinion that any play, pantomime or other drama performed or about to be performed, being of the nature specified in section 2, is likely to lead to a breach of the peace, by order stating the grounds for such opinion, prohibit its performance:

Provided that the District Magistrate may review his order on an application made by the person or party affected by such order.

(2) Subject to any order made by the Court on appeal under section 10, an order under this section shall remain in force for two months from the making thereof:

Provided that the District Magistrate, may, if he is of opinion that the order should continue in force, by such further order or orders as he may deem fit, extend the period aforesaid by such further period or periods not exceeding two months at a time as may be specified in such order or orders.

5. Service of order of prohibition.—A copy of the order made under section 8, sub-section (1), or under section 4, sub-section (1) or sub-section

(2), may be served personally or in such other manner as may be prescribed by rules made under section 13, on the organizers or other principal persons responsible for the conduct of, or any person about to take part in, the performance so prohibited or on the owner or occupier of the public place, in which such performance is intended to take place.

6. Penalty for disobeying order.—Any person on whom a copy of the order referred to in section 3 or section 4 is served and who does, or willingly permits, any act in disobedience of such order, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

7. Penalty for disobeying prohibition.—(1) Any person who, after the publication of an order under section 3, sub-section (3), or during the period when an order made under section 4, sub-section (1) or sub-section (2), is in force, organizes or is responsible for the conduct of, or who with the knowledge that such an order under section 3 or section 4 is in force takes part in, the performance prohibited thereby or any performance substantially the same as the performance so prohibited, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both.

(2) Any person who being the owner or occupier, or having the use of any public place, opens, keeps or uses the same for any performance prohibited under section 3 or section 4, or permits the same to be opened, kept or used for any such performance, shall on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

8. Power to call for information.—(1) For the purpose of ascertaining the character of any intended play, pantomime or other drama, the State Government, or such officer as they may empower in this behalf, may, by order, require the organizers or other principal persons responsible for the conduct of, or other persons about to take part in, such play, pantomime or other drama or the author, proprietor or printer of the play, pantomime or other drama about to be performed, or the owner or occupier of the place in which it is intended to be performed, to furnish such information as the State Government or such officer may think necessary.

(2) Every person so required shall be bound to furnish the information to the best of his ability within the time specified in such order and in case of contravention shall be deemed to have committed an offence under section 176 of the Indian Penal Code (Central Act XLV of 1860).

9. Power to call for copy of purport of Drama etc.—(1) If the State Government or the District Magistrate have or has reason to believe that an objectionable dramatic performance is about to take place, the State Government or the District Magistrate, as the case may be, may, by order, direct that no such dramatic performance shall take place in any public place within any area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than seven days before the performance, to the State Government or the District Magistrate aforesaid.

(2) A copy of any order made under sub-section (1) may be served on the owner or occupier of the public place in which such performance is intended to take place, and if thereafter he does or willingly permits, any act in disobedience of such order, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

10. Appeal to the Court of the Judicial Commissioner.—Any person aggrieved by an order under section 3, sub-section (1), or under section 4, sub-section (1) or sub-section (2), may, within sixty days of the publication of such order under section 3, sub-section (3), or, as the case may be, within sixty days of the date on which an order under section 4, sub-section (1) or sub-section (2), is made, prefer an appeal to the Judicial Commissioner, Himachal Pradesh, and upon such appeal, he may pass such orders as he deems fit confirming, varying or reversing the order appealed from, and may pass such consequential or incidental orders as may be necessary.

11. Saving of prosecutions under other laws.—Where no order under section 3 or section 4 has been made in respect of any performance, nothing in this Act shall bar a prosecution under the Indian Penal Code (Central Act XLV of 1860) or any other law.

12. Protection for acts done in good faith.—No suit, prosecution or other legal proceeding shall be instituted against any authority or officer for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

13. Power to make Rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) All rules made by the State Government under sub-section (1) shall, as soon as possible after they are made, be laid on the table of the Legislative Assembly of Himachal Pradesh.

14. Repeal of Central Act XIX of 1876.—The Dramatic Performances Act, 1876 (Central Act XIX of 1876) in so far as it applies to the Union territory of Himachal Pradesh, is hereby repealed.

15. Savings.—The repeal of the Dramatic Performances Act, 1876, by section 14 shall not affect—

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

STATEMENT OF OBJECTS AND REASONS

The Dramatic Performances Act, 1876 (Central Act XIX of 1876) is at present applicable to Himachal Pradesh. Its provisions are out-moded in the present day conditions. In particular, the procedural part of the Act has been considered by some of the High Courts to be imposing unreasonable restrictions on the Fundamental Rights to the freedom of speech and expression by leaving the matter entirely to the subjective determination of the District Magistrates and by denying the essential minimum requirements of natural justice, viz., the right to be heard before final condemnation and the right to have the order reviewed and determined objectively by a higher tribunal.

The Himachal Pradesh Dramatic Performances Bill, 1964 seeks to meet the main objections taken to the provisions of the Central Act and provides for better supervision and control over Dramatic Performances.

Y. S. PARMAR.

SIMLA :

The 29th January, 1964.

FINANCIAL MEMORANDUM

NIL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Government of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of the Act. The matters in respect of which such rules may be made relate, *inter alia*, service of order of prohibition and objectionable performances and matters related thereto. As such, the delegation of legislative power is of a normal character.

D. B. LAL,
Secretary.

